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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)

Implementation of Sections 309(j) and)
337 of the Communications Act of 1934,)
as Amended)

Promotion of Spectrum Efficient)
Technologies on Certain Part 90)
Frequencies)

Establishment of Public Service Radio)
Pool in the Private Mobile Frequencies)
Below 800 MHz)

WT Docket No. 99-87

RM-9332

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF THE CENTRAL STATION ALARM ASSOCIATION

The Central Station Alarm Association ("CSAA"), by its attorneys, hereby submits its reply comments in the captioned proceeding, relating to the implementation of Sections 309(j) and 337 of the Communications Act of 1934 ("Communications Act"), as amended by the Balanced Budget Act of 1997 ("Balanced Budget Act").¹

In brief, none of the comments filed in this proceeding are inconsistent with CSAA's demonstration that the handful of channels allocated for the exclusive use of central station protective services are a "public safety radio service" and are categorically exempt from competitive bidding. As an exempt public safety radio service, the FCC should continue licensing these exclusive use channels to central stations on a first-come-first-served basis. The FCC should also designate the Alarm Industry Communications Committee ("AICC"), an affiliate of CSAA, as the exclusive coordinator for the frequencies reserved for central station use. With regard to other

¹ Pub. L. No. 105-33, Title III, 111 Stat. 251 (1997).

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private radio spectrum, CSAA agrees with the Land Mobile Communications Council (“LMCC”) and the overwhelming majority of commentors in this proceeding who believe that the current site-based licensing and coordination system must be retained for private radio spectrum.

I. CHANNELS ALLOCATED FOR THE EXCLUSIVE USE OF CENTRAL STATION ALARM COMPANIES ARE EXEMPT FROM COMPETITIVE BIDDING AS PUBLIC SAFETY RADIO SERVICES

In its comments, CSAA demonstrated that the central station alarm frequencies in the 460 MHz band are used to provide a public safety radio service that is categorically exempt from auctions. The Commission has wisely restricted the use of these channels, which fall within the Industrial/Business pool, to UL-listed central station alarm providers. CSAA members are dedicated to promoting the safety of life and property through the use of wire and radio communication, a fundamental spectrum use goal articulated by the Communications Act.² Central station alarm monitoring services fall squarely within the definition of “public safety radio services” contained in the Communications Act, as amended by the Balanced Budget Act. This fact is further supported by the legislative history of the Balanced Budget Act.

None of the comments filed in this proceeding are inconsistent with CSAA’s demonstration that the handful of channels allocated for the exclusive use of central station protective services are used for a “public safety radio service.” The Commission should therefore exempt the central station alarm channels from competitive bidding.

In some urban areas where alarm monitoring channels are already loaded, these companies must utilize non-restricted channels in their safety-related operations. With

regard to these land mobile channels, the overwhelming consensus of commentors have demonstrated that the public interest would be best served by retaining the current licensing and coordination system.

II. A VAST MAJORITY OF COMMENTORS AGREE THAT THE COMMISSION SHOULD RETAIN ITS CURRENT SITE-BASED LICENSING AND COORDINATION SYSTEM

CSAA agrees with LMCC, and the overwhelming majority of private radio licensees and operators, who believe that the current site-based licensing and coordination system must be retained for private radio spectrum.³ For decades, the Part 90 land mobile services (with the exception of the 800/900 MHz SMR pools) have successfully used the frequency coordination process to avoid mutual exclusivity. Moreover, site-by-site licensing, shared use, and eligibility restrictions are mechanisms that can be used to reduce, if not eliminate, all instances of mutual exclusivity.

As MRFAC and others (including the FCC) have noted, the Balanced Budget Act elevated the importance of Section 309(j)(6), which spells out the Commission's duty to avoid mutual exclusivity through engineering solutions, frequency coordination, and other methods.⁴ By placing a greater emphasis on *avoiding* mutual exclusivity, Congress clearly intended that the Commission put greater weight on this obligation, among its public interest objectives. Thus, the FCC cannot auction private radio spectrum unless

² Section 1 of the Communications Act, 47 U.S.C. § 151 (1996).

³ See, e.g., Comments of the Land Mobile Communications Council ("LMCC Comments") at 3-5; Comments of AAA ("AAA Comments") at 5-6; Comments of Blooston, Mordkofsky, Jackson & Dickens ("BMJD Comments") at 4-10; Comments of Personal Communications Industry Association ("PCIA Comments") at 2-4; Comments of SCANA Corporation ("SCANA Comments") at 8-9; Comments of American Petroleum Institute ("API Comments") at 12-14; Comments of Intek Global Corp. ("Intek Comments") at 4-7.

⁴ Comments of MRFAC, Inc. ("MRFAC Comments") at 6-8; Comments of USMSS ("USMSS Comments") at 2-4; *NPRM* at para. 60.

and until it has sought to resolve mutual exclusivity by allowing private radio users to use these traditional spectrum management techniques.

Nextel, AMTA and a small group of others who support the commercialization of the private radio frequencies believe that virtually all private internal radio users can receive service from commercial providers. Commercial providers do not, however, have an economic incentive to provide the *customized* service that private internal users require.⁵ Moreover, commercial providers are unable to provide AICC members with the absolute security of communications that alarm monitoring operations must have in order to maintain their UL certification status.

III. THE COMMISSION'S OBLIGATION TO AVOID MUTUAL EXCLUSIVITY EXTENDS TO NEW ALLOCATIONS OF PRIVATE RADIO SPECTRUM

CSAA agrees with LMCC and others who believe the Commission's obligation to avoid mutual exclusivity under Section 309(j)(6)(E) of the Communications Act also extends to any new allocation of spectrum to the private radio services.⁶ Utilization of the current site-based licensing scheme, in conjunction with frequency coordination and appropriate eligibility restrictions, should eliminate most (if not all) instances of mutual exclusivity without having to impose an entirely new licensing scheme upon thousands of diverse private radio licensees. In this regard, CSAA notes that AICC has been able to

⁵ The Wireless Telecommunications Bureau has acknowledged that "[p]rivate systems serve a great variety of communication needs that *common carriers and other commercial service providers historically have not been able or willing to fulfill*," and that "[p]rivate users represent a 'thin and unique market' that commercial providers have little incentive to invest in to serve; there is usually not enough of a return involved to justify the capital investment to serve one or a few private customers." Wireless Telecommunications Bureau, *Private Land Mobile Radio Services: Background*, at 7-8 (December 18, 1996).

⁶ LMCC Comments at 5.

resolve the few instances of conflicting filings between central station applicants without difficulty.

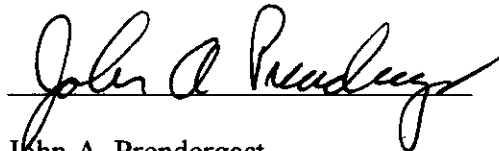
IV. CONCLUSION

CSAA has demonstrated that the handful of narrowband channels traditionally set aside for the exclusive use of central station protective services should be classified as a "public safety radio service" that is exempt from auction. Moreover, an overwhelming consensus of private radio licensees have demonstrated that it would not be in the public interest to license private radio spectrum by competitive bidding. Congress intended the Commission to take seriously its obligation to resolve mutual exclusivity through engineering solutions and other spectrum management techniques before resorting to auctions in the private radio services. The alarm industry should also be given exclusive responsibility for coordinating the use of central station exclusive use channels to further protect the integrity of these vital communications.

Respectfully Submitted,

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